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## TURKEY

### **TURKEY'S FAILED POLICY TO AID THE FORCIBLY DISPLACED IN THE SOUTHEAST**

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#### **SUMMARY**

Some 2,685 villages and hamlets in Turkey's southeastern provinces have been completely or partially depopulated since fighting broke out in the region in August 1984 between government forces and the Kurdistan Workers Party (PKK), an armed group which until recently had the avowed goal of an independent Kurdish state. Although there has been some migration for economic reasons from the region, most of the depopulation has been the result of a government counterinsurgency campaign intended to deprive the PKK of logistical support. The PKK has also targeted state-sponsored village civil militia settlements, forcing some inhabitants to flee. Many of the houses in depopulated villages are destroyed, and at times the belongings of the displaced - including farm animals and implements - are wrecked along with their homes. Most of this forced migration has occurred since 1992, and estimates of the number of individuals displaced range from 275,000 to two million. According to the 1990 census, roughly four million individuals lived in the ten provinces presently under emergency rule in southeastern Turkey. The majority of the population in this area consists of ethnic Kurds.

Turkey has violated both international and domestic law in its counterinsurgency campaign in southeastern Turkey that led to the displacement of these individuals. These instruments include the Geneva Conventions, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Turkish Constitution. Violations here include not only the act of forcible displacement in violation of international humanitarian law, but also the absence of measures to provide food, temporary housing and medical care. There was also a failure to provide adequate compensation for destroyed homes and property.

Having largely created this plight, Turkish government responses to the humanitarian needs of the forcibly displaced have been late in coming and largely inadequate. Plans intended to deal with these migrants such as the "Central Villages Project" or the "Return to the Villages" scheme of the "Southeast Restoration Project" were announced in November 1994 and mid-1995, well after the forced-displacement situation had reached a crisis level. The projects were either inadequate or poorly-executed, however, and as a result little became of them. Attempts by displaced persons to get state compensation for crops, homes, or belongings destroyed have usually been unsuccessful, a violation of Turkey's obligations under Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which states, "Everyone whose rights and freedoms as set forth in this convention are violated shall have an effective remedy before a national authority..." Nor has the Turkish government allowed international aid organizations like the UNHCR or the ICRC to offer their services within the country.

On the contrary, the forced migration connected with the conflict in southeastern Turkey has been chaotic and unorganized. Only the extended kinship relations of Kurds in southeastern Turkey have prevented a larger crisis, allowing the displaced to find shelter with extended family members. Individuals who flee or are forced out of their villages in southeastern Turkey haphazardly sought refuge in already overburdened provincial towns and cities within the region or in Turkey's teeming western urban centers.

## **Recommendations**

### **Human Rights Watch/Helsinki urges the Government of Turkey to:**

- Abide by international humanitarian law in the conduct of military operations in southeastern Turkey. This involves limiting decisions to forcibly evacuate civilians to expressly stated reasons of military necessity and ceasing such evacuations as soon as the military necessity is over. During times of such military necessity, the relevant authorities must give notice to those who will be evacuated and receive them in good health and care. The government must, in addition, provide an adequate compensation scheme in kind or money to restore the civilian population to the status quo ante if upon return displaced persons find their property has been lost or destroyed. If claims arise, the government must provide an independent tribunal or administrative body to adjudicate such claims.
- Investigate, prosecute, and punish those military or police members who knowingly violate these obligations.
- Create an independent commission to investigate the depopulation of villages and hamlets in southeastern Turkey. This commission should publish an official list of evacuated villages and the reasons for their evacuation, as well as the number of those displaced, their places of origin and current places of residence;
- Pay indemnity to all those displaced. As part of this process, the government should create an aid commission to provide the displaced with necessary assistance;
- Grant access for the ICRC and the UNHCR to southeastern Turkey so that they may conduct aid operations.

### **Human Rights Watch/Helsinki urges the PKK to:**

- Abide by international humanitarian law, including the international law obligation to refrain from attacks on civilians;
- Cease any actions that contribute to forced migration, such as attacks against village guard villages.

### **HRW/Helsinki urges the European Union, Council of Europe, and United States Government to:**

- Urge Turkey to carry out the recommendations in this report.
- Monitor the condition of the displaced as part of regular monitoring of the country situation;
- End all military sales and security aid to Turkey until such time as Turkey no longer engages in a pattern of gross human rights abuses.

### **Human Rights Watch/Helsinki urges the United Nations to:**

- Order the Secretary General's Special Representative on Internally Displaced Persons to investigate village evacuations in Southeastern Turkey.

## BACKGROUND TO THE CONFLICT

The region has been the scene of armed conflict since 1984 between government security forces and the PKK ("Partia Karkaren Kurdistan,") a militant armed Kurdish group until recently fighting for an independent Kurdish state. The conflict has been characterized by severe human rights abuses by both security forces and the PKK. In 1987 ten provinces in the region were placed under emergency rule because fighting had intensified.<sup>1</sup> This strict decree gave security forces special powers, including the right to hold suspects in incommunicado detention for up to thirty days for certain crimes and to restrict the press. In 1991, the Anti-Terror Law was instituted to punish so-called "separatist propaganda," resulting in the repression of peaceful free expression - especially concerning debate on the Kurdish issue - and the imprisonment of writers and intellectuals. By 1992, the conflict in the southeast had entered a new spiral. Torture and deaths in detention increased, as did "disappearances" under mysterious circumstances. A wave of so called "actor unknown murders" targeted Kurdish nationalist intellectuals, journalists, and also suspected PKK members, numbering some 1,200 deaths between 1992 and 1994. A Turkish parliamentary commission investigation into these killings, leaked to the press in 1995, concluded that "'illegal formations' within the state bear some responsibility for mystery killings; they must be 'cleansed'...and brought to justice."<sup>2</sup>

Targeted political killings were not carried out solely by those believed to be connected with the state: the PKK assassinated those suspected of cooperating with the state, such as teachers, civil servants, village guards and their family members, and former PKK members.

In 1992, government security forces intensified a counterinsurgency campaign against the PKK, forcibly evacuating and burning rural villages. Another effort was made to recruit villagers into the state-sponsored paramilitary "village guard program." Most of the estimated 2,685 villages and hamlets fully or partially depopulated in the region since 1984 are the result of this campaign. Former Chief of the Turkish General Staff Doğan Güreş in 1994 termed this counter-insurgency plan the "go hungry and surrender strategy."<sup>3</sup> The PKK in turn launched attacks against both security forces and villages that had joined the government's civil-defense "village guard" program, killing village guards and their families alike. An October 1994 Human Rights Watch/Helsinki report stated:

Since 1993, civilian displacement from southeastern Turkey has become a widespread phenomenon because of increased fighting by both the PKK and government security forces....

Both Turkish security forces and PKK fighters are guilty of human rights abuses. Security forces operating in the southeast often make little distinction between civilians and the PKK members, and the PKK has continued its practice of brutality punishing any cooperation with state authorities.... *In an effort to deprive the PKK of its logistic base of support, security forces forcibly evict villagers from their villages and sometimes destroy their homes.* Torture and arbitrary detention often accompany such evictions. Security forces especially target those villagers who refuse to enter the village guard system or those that give food and shelter to the PKK fighters or are suspected of doing so.... The PKK, on the other hand, attacks those villages that join the village guard system, often killing whole families along with village guards, as well as punishing anyone who cooperates with the state.<sup>4</sup>

While the situation improved somewhat in 1995, the U.S. State Department's annual *Country Report on Human Rights Practices for 1995* stated, "The human rights situation improved in a number of areas, but very serious problems still remain. The situation in the southeast was of particular concern."<sup>5</sup>

The Turkish government, while acknowledging that large numbers of villages and hamlets have been evacuated,

contends that the evacuations are voluntary and the result of pressure and harassment by the PKK.<sup>6</sup>

### FIGURES ON THE DISPLACED

In a May 26, 1996 briefing to the Turkish Council of Ministers, Emergency Rule Governor Necati Bilican announced that 706 villages (*köy*) had been completely depopulated, and another 212 partially depopulated. Furthermore, 1,592 hamlets (*mezra*) had been fully depopulated, with another 175 partially depopulated. He cited various reasons for the complete or partial depopulation of some 2,685 villages and hamlets. A year before, the emergency rule governor's office issued similar figures: villages, 753 completely, 235 partially evacuated; hamlets, 1535 completely, 141 partially evacuated.<sup>7</sup>

The exact number of displaced is unknown since no independent group has been able to freely conduct research in the region. Therefore, all figures for the number of displaced should be taken as estimates. In July 1995, then Interior Minister and present Deputy Prime Minister Nahit Menteşe announced that 275,653 individuals had left 1,421 depopulated villages and hamlets because of PKK actions. In May 1996, Emergency Rule Governor Necati Bilican put the number of depopulated at 329, 916 individuals. He stated that they had left their villages for "various reasons." In October 1994, in connection with government military operations in Tunceli province that resulted in widespread displacement, then State Minister Responsible for Human Rights Azimet Köylüoğlu stated, "We are specifically dealing with Tunceli. But in the (Southeast) there are two million without a house or a place to call home who live in the open and on the street." <sup>8</sup>

### TURKISH GOVERNMENT RESPONSE TO THE PLIGHT OF THE DISPLACED

Turkish government programs to deal with the plight of those displaced by the government counterinsurgency campaign in the southeast have been late in implementation, inadequate to the scope of the problem, and poorly executed. In its 1995 *Country Report* evaluation of Turkey, the U.S. State Department, citing Turkish Foreign Ministry statistics, reported that U.S. \$5.7 million (TL287 billion) had been provided for housing, clothing, health, and education to 32,260 citizens in the southeast.<sup>9</sup> A June 1995 U.S. government report concluded,

Whatever the precise circumstances of individual evacuation, governments are expected to provide for the security and shelter of their evacuated citizens....To date, the Turkish government programs to deal with the many internal migrants have been very inadequate. Few displaced villagers have been compensated, and there seems to be an ad hoc quality to most compensations.<sup>10</sup>

In an admissibility decision issued in October 1994 for a case brought against Turkey by a Turkish Kurd who had been displaced, the European Commission of Human Rights of the Council of Europe stated:

It is a known fact that there has been significant destruction of villages in South-East Turkey with many people displaced as a result. The applicants allege that their homes...have been destroyed by the security forces...The Government have outlined a general scheme of remedies that would normally be available for complaints against security forces....The Government have not provided a single example of compensation being awarded to villagers for damage like that allegedly suffered by the present applicants.<sup>11</sup>

While a lack of funds, rejection of requests for support from the Council of Europe, and the continuing government crisis in part explain the relative failure of programs to aid the displaced, they in no way relieve Turkey's government of its legal obligations under both international and domestic law to aid the internally displaced.

Since mid-1994 there have been two programs envisioned to alleviate the housing crisis in southeastern Turkey caused as a result of the conflict.<sup>12</sup> The first, the "Central Villages" project, apparently was postponed because of an inability to secure financing from the Council of Europe. In mid-1995, a project of even greater scale called the "Return to the Villages Project" was announced, but it never really got off the ground and was then shelved in late 1995 because of the collapse of the ruling DYP/CHP ruling coalition in September 1995 and then the parliamentary elections held in December. In addition, in his government program of March 1996, Prime Minister Mesut Yılmaz stated, "All possibilities will be mobilized for the local people to return to the evacuated villages where security is established; housing projects for those unable to return will be accelerated."<sup>13</sup> It is too early, however, to ascertain what concrete measures have been carried out in connection with this promise, especially in light of the present instability of the ruling ANAP/DYP coalition.

### Central Villages Project

In November 1994, then Prime Minister Tansu Çiller announced a "Central Villages" project, what would provide in its first phase housing on state lands to create "secure [living] areas" in eastern and southeastern Turkey for 12,000 families whose villages had either been burned or evacuated.<sup>14</sup> The project, was to be carried out under the aegis of the Rural Habitation Administration ("Kırsal Yerleşim İdaresi,") and the Turkish government applied for ten trillion Turkish lira (an estimated U.S. \$275 million) of financing from the Social Development Fund of the Council of Europe. The program would be voluntary, and the land and housing would be provided through low-interest loans. Çiller commented, "These will be secure areas, which will have easier communication among themselves, and they will have better solutions for their economic problems, including marketing, by easily reaching out to each other."<sup>15</sup> Çiller also promised that after its initial stage the project would be extended to other parts of Turkey to aid those who had migrated or fled their homes because of security reasons. In March 1995, State Minister Responsible for City Planning Salih Sümer announced that Batman and Diyarbakır provinces had been chosen as the sites for the first stage of a planned resettlement of 12,000 displaced families.<sup>16</sup>

The Central Village Project was postponed, however, the victim of a lack of funding. The Social Development Fund of the Council of Europe rejected Turkey's application for funds of U.S. \$252 million dollars for the project because it feared that such funds could be used for forced settlement in the region.<sup>17</sup> There was talk of expanding the project to all regions of Turkey to secure financing from the Council of Europe.

### Return to the Village Project of the Southeast Restoration Project

In the summer of 1995, another project, more ambitious in scope than the "Central Village" scheme called the "Return to the Village Project" of the Southeast Restoration Project, was announced. The Council of Ministers gave the task of working out a plan for a "secure return to villages" program to four ministers: Deputy Prime Minister Hikmet Çetin; Interior Minister Nahit Menteşe (presently the deputy prime minister); State Minister Necmettin Cevheri; and State Minister for Human Rights Algan Hacaloğlu.<sup>18</sup> The first stage of the planned return would encourage cattle raising, bee-keeping, and weaving, supported by funding of one trillion Turkish lira (roughly U.S. \$22 million). Hacaloğlu stated, "We should stop making fake, artificial attempts just to convince the European Parliament.... We cannot provide regional security by establishing exaggerated security concepts. We have seen so far that this does not work. If we cannot actualize the return to villages project we cannot stop the detrimental urbanization in big cities."<sup>19</sup> Deputy Prime Minister Çetin, one of the four members of the "Return to the Village Project" committee, announced that the "Southeast Restoration Project" ("Güneydoğu Onarım Projesi") would be given its final form at a July 14 meeting of twenty-one provincial governors and would be enacted later in Van.<sup>20</sup> Çetin also stated that in meetings with other ministers questions related to making evacuated villages habitable again had been dealt with, adding: "On Saturday we called twenty-one provincial governors to Ankara. At that meeting we will give the program its final shape and at a gathering in Van enact it. Before winter sets in we will do as much as is possible."<sup>21</sup> That same month, State Minister

Onur Kumbaracıbaşı announced that the "Southeast Restoration Project" was one of the most important undertakings in supporting the fight against terrorism, noting that an increased migration from rural to urban areas was continuing, causing increased housing, infrastructure and employment needs in cities.<sup>22</sup>

But the "Return to the Village Project" made little, if any headway. A month after the project had been announced the committee responsible to carry it out had not convened once. Competing interests among security forces, the emergency rule governor, and various state ministries harmed the project. In July 1995, Emergency Rule Governor Erkan voiced security concerns and suggested that the displaced should stay where they had migrated, while then Prime Minister Tansu Çiller stated, "We have made progress in identifying the villages that can be returned to."<sup>23</sup>

State Minister for Human Rights Algan Hacaloğlu, a member of the four-man committee tasked with carrying out the project, became the sad chronicler of its demise. After an inspection tour of Tunceli province in August 1995, Hacaloğlu stated that not one step had been made to carry out the "Southeast Restoration Project," of which the "Return to the Village Project" is part, in spite of the fact that two trillion Turkish lira (about US \$44 million) had been allocated for this purpose. He complained, "Especially for our 'Return to the Village Project' I expect the understanding and cooperation of our security forces and of the commanders of our armed forces. Return to the Villages projects can only be implemented in secure areas. But in spite of the fact that this decision was taken and a month has passed, not one serious step has been taken."<sup>24</sup> Later that month he complained,

The project is in a bad stage. There is a lack of interest here. This lack of interest comes from the four-man committee. Those who are not implementing the project should be held accountable. These problems have to be solved before winter. But the emergency rule governor's office has not answered one of my inquiries, stating whether any place is secure or not....<sup>25</sup>

Hacaloğlu stated that the "Return to the Village Project" and the "Southeast Restoration Project" had not even begun to develop in the region and that he had not found who was in charge of it; even provincial governors did not really know about the project. He also complained that in spite of the fact that he had written the emergency rule governor concerning two groups of individuals from two villages that wanted to be resettled, the governor of Tunceli had no information about them. Hacaloğlu also stated that although there were claims that people did not want to return to their villages, he had received many petitions for resettlement from village *muhtar* ("headman,").

The state minister for human rights also alleged that the Emergency Support Fund, used to provide aid for emergencies in the region, was being used arbitrarily, that there were no goals or projects, and that the Emergency Rule governor and the other governors used the fund according to their arbitrary desires. He said that last year, in 1994, 1.6 trillion Turkish lira had been appropriated: "This money is being used by Mr. Necmettin Cevheri and Mr. Unal Erkan. Yes, perhaps some of this money may have been used purposefully, but it would be much more effectively spent in connection with definite projects. Problems cannot be solved by distributing a few million here and there."<sup>26</sup>

Winter approached with little progress achieved, although in October 1995 it was announced that after provincial governors had conducted feasibility studies, from a security point of view 450 villages could be opened for rehabilitation.<sup>27</sup> Hacaloğlu, however, stated that he had sent to the governors of the southeast provinces, the interior minister, the deputy prime minister, and a state minister a total of 750 inquiries from those wishing to return to villages, but had received almost no responses: "Of the 750 inquiries I received one response, from the governor's office in Mardin."<sup>28</sup> The "Southeast Restoration Project" was referred to as a "fiasco," with the four-man committee meeting only once between July-October 1995. Also, funding that had been allocated had not been transferred to the displaced because of "indifference," and little attention had been paid to the petitions of village headman regarding resettlement.<sup>29</sup>



In November 1995, it was announced that 1,165 individuals had applied to return to their villages and 150 had petitioned for compensation but that the coordinating commission tasked with reviewing these claims had not examined one.<sup>30</sup> At the time it was announced that village return projects would be suspended because of the upcoming December 1995 parliamentary elections. Political uncertainty has reigned from at least the time of these elections until today, as the ANAP/DYP coalition government under Prime Minister Mesut Yılmaz is on the verge of collapse. In April 1996, the former governor of Diyarbakir province, Doğan Hatipoğlu complained that the "Return to the Village Project" had made little, if any, progress. He stated, "No matter how regrettable, from that day [of the announcement of the project] to today nothing has been done and the project remains on paper only."<sup>31</sup> In a May 1996 announcement, Emergency Rule Governor Necati Bilican announced that most individuals would not be able to return to their villages.<sup>32</sup>

### THE SITUATION OF THE DISPLACED IN THE WORDS OF TURKISH OFFICIALS AND GOVERNMENT MINISTERS

- In January 1994, a Turkish parliamentary commission under the chairmanship of the then-ruling DYP party formed in mid-1993 to investigate the conflict in southeastern Turkey released its findings. One conclusion of the Committee's report was that, "In many operations carried out by security forces - even if this was not intended--the personal security and property of citizens was damaged and preventative measures were insufficient."<sup>33</sup>

- In August 1994, former Emergency Rule Governor Ünal Erkan complained of the consequences of the widespread migration in the region, "Those living in the southeast, some live under the shadow of trees, there are problems with shelter, with food, there is a greater need for aid....Some of our citizens are living in Red Crescent tents, others are staying with relatives. But there are even some of our fellow citizens who are living under the shadow of trees."<sup>34</sup> Erkan, however, blamed the PKK for all forced migration.

- At an August 1994 meeting of the Council of Ministers, former Deputy Prime Minister Murat Karayalçın stated that many individuals had become homeless in the southeast because of village evacuations but promised, "We'll do several things for our fellow citizens. We'll create new living areas, we'll work to assure that they become home owners."<sup>35</sup> That same month, in a trip to southeastern Turkey, Karayalçın declared, " This year we will start a new housing program. The pains of the southeast must be felt deep in the hearts of all our people..."<sup>36</sup>

- In October 1994, as security forces carried out operations in Tunceli province, deputies from the junior coalition partner SHP, a deputy prime minister, and the state minister for human rights Azimet Köylüoğlu all visited the region. Köylüoğlu complained that:

Good people live in Hakkari, Siirt, Şırnak, in short, in the southeast. Real honest, upstanding people. But we have evacuated the homes and villages of these people. Villages are burning. People can't sow their fields, can't harvest a crop. A citizen doesn't have security about what will come tomorrow. You can't conduct evacuations in a village in another region of Turkey. The republic's prosecutors, judges should order a stop to such actions. If we are a state based on the rule of law, this must be enforced in Hakkari, in Şırnak, in Van, in the whole of the southeast. In Turkey, laws must be applied equally to everyone and everywhere. But in some places, forget about being compensated, you cannot even find a district governor, a prosecutor, or a judge to take your petition.<sup>37</sup>

- In March 1995, former State Minister Responsible for City Planning Salih Sümer commented,

Because of events that have occurred in the southeast, villages have been burned and evacuated. The vast portion of these people have migrated to cities, especially Diyarbakir and Batman. Diyarbakir is the city that has received the

greatest migration. Batman comes in second. Their populations have doubled. A large portion of the migrants are living in nylon tents and are continuing with their lives in rather poor conditions. When people move in with their relatives or acquaintances, thirty to forty people are forced to live in one home.<sup>38</sup>

· In August 1995, former State Minister for Human Rights Algan Hacaloğlu complained bitterly about civilian suffering in Tunceli caused by that struggle.

The images of the people of Tunceli differ little from the people of Bosnia and Palestine in their hunger and distress. Yes to the struggle against terror, but the right to shelter, subsistence, and life must be observed. If Turkey says no to this it doesn't have a right to join the European Union.<sup>39</sup>

· In October 1995, Hacaloğlu again complained about the lack of progress in aiding the displaced in the southeast, complaining that, " We evacuated villages in the fight against terror, but after that we didn't fulfill the requirements. People are living in tough conditions in tents."<sup>40</sup>

### **TURKEY'S LEGAL OBLIGATIONS**

Turkey is bound by numerous legal obligations, both domestic and international, regarding displacement and the displaced. They include the 1949 Geneva Conventions, the 1953 European Convention for the Protection of Human Rights and Fundamental Freedoms, and Article 125 of the Turkish Constitution and Article 1 of Law 2935 of October 25, 1983 on the State of Emergency.

#### **Common Article Three of the Four Geneva Conventions of 1949**

Turkey, as a signatory to the Geneva Conventions, is unequivocally bound by all its provisions, including Common Article 3, the only article of the convention applying to an internal conflict. Given the nature, scale, and duration of military operations by both sides in southeastern Turkey, where a quarter-million police and army troops have engaged thousands of full-time PKK combatants for at least four years, Common Article 3 clearly applies to both Turkish forces and the PKK, although the latter is not and cannot be a signatory to the convention.<sup>41</sup> Common Article 3 requires that noncombatants, including combatants taken prisoner or rendered incapable of fighting, be treated humanely and bans humiliating or degrading treatment against civilians and prisoners and the summary execution of civilians and captured fighters.

Although Turkey has not ratified the 1977 Protocol II to the 1949 Geneva Conventions, it provides guidance for the interpretation of Turkey's obligations under other standards, namely those related to forced displacement because of military necessity. Article 17 of Protocol II prohibits civilian displacement "unless the security of civilians involved or imperative military reasons so demand" and requires, "Should displacement have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety, and nutrition." Most evacuations in southeastern Turkey do not seem to fulfill either of these criteria, but are rather motivated by the desire to deny the PKK logistic support. According to one authority on Protocol II: "The felt need for a prohibition...was based on concern over policies sometimes practiced in counterinsurgency operations of 'drying up the sea in which guerilla fish swim.'"<sup>42</sup>

#### **European Convention for the Protection of Human Rights and Fundamental Freedoms**

Even if the Turkish government disputes the application of Common Article 3, other international human rights instruments apply, which the Turkish government does not dispute. In a correspondence with Human Rights Watch, the



Turkish government stated that, "Nevertheless, not applying Common Article 3 to the situation in southeast of Turkey does not mean that human rights should not be safeguarded.... it [Turkey] accepts even tighter human rights control mechanisms within the said European Human Rights Convention."<sup>43</sup> The Convention includes, among other protections, the right to life, free expression, fair trial, effective domestic legal remedy before a national body, and the right to be free from torture. Since 1987, Turkish citizens have had the right of individual petition to the European Commission of Human Rights in Strasbourg. Between 1991 and October 1995, there have been at least 778 cases lodged against the Republic of Turkey, with many in the past couple of years connected with the conflict in the southeast, especially alleging village evacuations and burnings.<sup>44</sup> In October 1995, the Commission ruled in one case regarding a village evacuation that Turkey had violated the European Convention on Human Rights.<sup>45</sup> Some of the violations specifically applied to forced evacuations. The Commission ruled that Turkey had violated--among other articles of the convention--Article 8 (right to home and private/family life), Article 13 (right to an effective legal remedy before a national authority), and Article 1 of Protocol 1 (peaceful enjoyment of possessions).

### **Turkish Domestic Law<sup>46</sup>**

Turkish domestic law provides that citizens must be compensated for government actions that cause them loss of property or injury. In proceedings before the European Commission of Human Rights regarding a case of alleged forced evacuation and burning of a village by government security forces, the Turkish government submitted as relevant law Article 125 of the Turkish Constitution, which states, "The administration shall be liable for damage caused by its own acts and measures." This is not restricted by any state of emergency or war, and does not necessarily require proof of a fault on the part of the administration. Article 1 of Law 2953 of October 25, 1983, states, moreover, that, "actions for compensation in relation to the exercise of the powers conferred by this law are to be brought against the Administration before the administrative courts."

If these laws were enacted effectively, the number of petitions to the European Commission of Human Rights would be greatly reduced.

This report was edited by Holly Cartner, executive director of Human Rights Watch/Helsinki, and Cynthia Brown, program director of Human Rights Watch. Shira Robinson, associate of Human Rights Watch/Helsinki, provided production assistance.

### *Human Rights Watch/Helsinki*

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1 Provinces presently under emergency rule include Şırnak, Batman, Van, Tunceli, Siirt, Mardin, Hakkari, Diyarbakir, Bitlis, and Bingöl.

2 Human Rights Watch/Helsinki, "Turkey: Violation of the Right to Petition to the European Commission of Human Rights," *A Human Rights Watch Short Report*, vol. 8, no. 4, (New York: Human Rights Watch, April 1996), p. 5.

3 See, "Turkish Forces Change Tactics Against Kurd Rebels," Reuters, July 30, 1994 in Human Rights Watch/Helsinki, "Forced Displacement of Ethnic Kurds from Southeastern Turkey," *A Human Rights Watch Short Report*, Vol. 6, No. 12 (New York: Human Rights Watch, October 1994), p. 5.

A June 1995 U.S. State Department report commented, "The Government of Turkey in its struggle against the PKK has relied primarily on a military strategy....which includes the evacuation and/or destruction of many villages, [and] has resulted in human rights abuses...." See U.S. Department of State, "Report on Allegations of Human Rights Abuses by the Turkish Military And on the Situation in Cyprus." (Washington, D.C.: U.S. Department of State, June 1995), p. 1.

4 Human Rights Watch/Helsinki, "Forced Displacement," October 1994, p. 3-4. See also, Helsinki Watch, "Free Expression in Turkey: Killings, Convictions, Confiscations," *A Human Rights Watch Short Report*, vol. 5, no. 17, August, 1993; Helsinki Watch, *The Kurds of Turkey: Killings, Disappearances and Torture* (New York: Human Rights Watch, 1993); Helsinki Watch, *Broken Promises: Torture and Killings Continue in Turkey*, (New York: Human Rights Watch, 1992). Author's italics.

5 Department of State, *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, 1996).

6 See, Ministry of Foreign Affairs, Republic of Turkey, "'Weapons Transfers and Violations of the Laws of War in Turkey'- Some Comments," December 13, 1995, p. 6. This was a response to a November 1995 report by the Human Rights Watch Arms Project, "Weapons Transfers and Violations of the Laws of War in Turkey."

7 See Human Rights Foundation of Turkey Daily Report, May 28, 1996, based on article in Istanbul daily *Milliyet*; Derya Sazak, "Siyaset Günlüğü: Göçlerin dramı," ("Everyday Politics: The Drama of the Migrants,") *Milliyet*, (Istanbul), July 25, 1995.

8 Emin Özgönül, "Güneydoğu halkı şimdi göçebe oldu" ("The people of the Southeast have become Nomads,") *Yeni Yüzyıl*, Istanbul, July 20, 1995; Ergün Aksoy, "Köyleri devlet yakıyor," ("The State is Burning Villages,") *Cumhuriyet*, (Istanbul), October 11, 1994, p.1.

9 Department of State, *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, 1996), p. 1068. In 1994, the State Department reported that according to a Turkish government report, to date U.S. \$227,000 had been spent on the needs of the displaced and a further U.S. \$545,000 would be allocated to house the displaced. See United States Department of State, *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, 1995), p. 1,000.

10 U.S. State Department, "Report on Allegations," p. 12.

11 Akduvar and Others v. Turkey (Application Number 21893/93).

12 There was a third program announced to alleviate overcrowded living conditions in the southeast, but housing would be sold at favorable rates, not provided as compensation. In July 1994, the head of the Housing Development Administration Board (Toplu Konut İdaresi Başkanlığı TKİB), Yücel Gülöksüz announced that 5,200 units of social housing would be built within a year in eastern and southeastern Turkey to be purchased with a low down payment and in installments. Four-hundred homes would be built in Hakkari city, 400 in the Yüksekova district of Hakkari, 400 in Şırnak province, 3,000 in Diyarbakir province and 1,000 in Batman. See, Ayşe Sayın, "Ataköy'den Batman'a konut desteği" ("Housing Support for Batman from Ataköy,") *Cumhuriyet*, Istanbul, July 12, 1994, p. 4. See also, "Toki'nin satışına Vakıfbank desteği," ("Support of Vakıf Bank for TOKİ sales,") *Cumhuriyet*, Istanbul, August 5, 1994.

13 *T.C. Resmi Gazete*, March 13, 1996, #22579, Ankara, Turkey.

14 "Doğu'ya 'güvenli' bölge," ("Secure area for the East,") *Cumhuriyet*, (Istanbul), November 29, 1994. *Cumhuriyet* is daily in Istanbul; Jonathan Rugman, "Turkey Plans to Resettle Kurd families," *Guardian*, (London), December 2, 1994; Hugh Pope, "Turkey to house evicted Kurds in special villages," *The Independent*, (London), December 2, 1994; Ankara TRT Television Network 1200 GMT 28 November 1994 in FBIS-WEU-94-229, November 29, 1992, p. 57.

15 Ibid.

16 Ergün Aksoy, "Göçerlere İsrail Tipi Çiftlik" ("Israeli Style Farms for the Migrants,")

*Cumhuriyet*, Istanbul, March 26, 1995, p. 3

17 Işık Kansu, "Çiftlikler Türkiye'ye yayılacak," ("The Farms will be Nation Wide,") *Cumhuriyet*, (Istanbul), July 20, 1995, p. 6.; Esra Yener, "Özer Çiller'in çiftlik tutkusu," ("Özer Çiller's Interest in Farms,") *Cumhuriyet*, (Istanbul), October 10, 1995.

A similar plan had been introduced in the 1970s to unite widely scattered rural villages in order to bring them services more efficiently.

18 Ayşe Sayın, "Köylere 'güvenli dönüş' arayışı" ("Search for a Secure Return to Villages,") *Cumhuriyet*, (Istanbul), July 7, 1995, p. 4. At the time it was announced that 976 villages and 1,225 hamlets had been evacuated for "security reasons" in eastern and southeastern Turkey.

19 Ibid.

20 "Güneydoğu Onarım Projesi yaşama geçiriyor" ("The Southeast Restoration Project is being Enacted"), *Cumhuriyet*, (Istanbul), July 12, 1995, p. 5.

21 Ibid.

22 "Sloganımız, her aileye bir ev, her ev bir iş," ("Our Slogan: a House for Every Family and an Employed Person in Each House,") *Cumhuriyet*, Istanbul, July 2, 1995. He also announced that eight municipal projects had been approved for 4778 low cost housing units requiring an initial down payment of about U.S. \$3300 dollars and a monthly payment

of around U.S. \$90 dollars. A credit of around U.S. \$33 million was pledged.

23 "Çiller: Köyünüze dönün" ("Çiller says, 'Return to your Villages'"), *Cumhuriyet*, Istanbul, July 16, 1995; "Devletin Göç Açmazı," ("Government's Dilemma on Migration,") *Cumhuriyet*, July 16, 1995. The Turkish Prime Minister also promised roughly twenty trillion Turkish lira of development aid for the region (U.S. \$426 million).

24 "Güneydoğu ile ilgili ciddi bir adım yok," ("No Serious Steps Connected With the Southeast,") *Cumhuriyet*, August 11, 1995, p. 5.

25 "Güneydoğu Onarımı ağır aksak gidiyor" (The Southeast Restoration Project is Limping Along Badly,) *Yeni Yüzyıl*, (Istanbul), August 25, 1995, p. 5.

26 "Tunceli Bosna'ya Benziyor," ("Tunceli looks like Bosnia,") *Cumhuriyet*, August 13, 1995, p. 1.

27 Üiğür Şefkat, "450 köy tekrar yerleşime açılıyor," ("450 villages to be Opened for Habitation,") *Yeni Yüzyıl*, (Istanbul), October 9, 1995. The Turkish general staff would still have to give its final approval for a return to any of these villages.

28 "Göç projesi Rafta," ("Migration Project Shelved,") *Cumhuriyet*, October 2, 1995.

29 Ibid.

30 Şebnem Güngör, "Köye Dönüş Sabırsızlık," ("Impatient to Return to the Village"), *Yeni Yüzyıl*, November 14, 1995.

31 Oya Ayman Büber, "Köye Dönüş projesi Fiyasko," ("Return to the Village Scheme a Fiasco,") *Yeni Yüzyıl*, April 16, 1996, p. 5.

32 Human Rights Foundation of Turkey, Daily Report, May 28, 1996.

33 "G.Doğu'ya barış paket" ("Peace Package for the Southeast,") *Cumhuriyet*, January 13, 1994.

34 "Ünal Erkan, Çiller'e kara tablo çizdi: Güneydoğu'da halk çalı gölgesinde yaşıyor," ("Ünal Erkan paints a black picture for Çiller: People in the Southeast are Living under Trees,") *Cumhuriyet*, August 11, 1994, p. 5.

35 "Güneydoğu 1.7 trilyonluk kaynak" ("Funding of 1.7 trillion Lira for the Southeast,") *Cumhuriyet*, Istanbul, August 25, 1994, p. 5

36 Bülent Sarıoğlu, "Güneydoğulu 'açız' diye bağırdı," ("The People of the Southeast Shouted, 'We are Hungry,'" ) *Cumhuriyet*, Istanbul, August 18, 1994.

37 Ergün Aksoy, "Tunceli köyleri yanıyor, halk sefaleti yaşıyor" ("The Villages of Tunceli are Burning and the People are Experiencing Great Poverty"), *Cumhuriyet*, October 8, 1994, p. 1.

38 Aksoy, "Göçerlere..." ("For the Migrants..."), *Cumhuriyet*, Istanbul, March 26, 1995.

39 "Tunceli..." ("Tunceli..."), *Cumhuriyet*, Istanbul, August 13, 1995.

40 "Göç..."("Migration..."), *Cumhuriyet*, Istanbul, October 2, 1995.

41 Application of Common Article 3 in no way confers special status on a force such as the PKK, and the Turkish Government in accord with due process has the right to prosecute any PKK members who commit criminal offenses under Turkish law.

The Turkish government disputes the application of Common Article 3 and argues that the PKK is a terrorist group that employs terror tactics.

42 M. Bothe, K. Partsch, W. Solf, eds., "New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949, (Boston: Martinus Nijhoff, 1982), p. 691.

43 Turkish Embassy Response to January 17, 1996 letter from Kenneth Roth, Human Rights Watch Executive Director to H.E. Nuzhet Kandemir, Turkish Embassy, Washington, D.C., February 7, 1996.

44 Human Rights Watch/Helsinki, "Turkey: Violations of the Right...", p. 5.

45 Akduvar and Others, Report of the Commission, (10/95).

46 Akduvar and Others v. Turkey (Application Number 21893/93), European Commission of Human Rights, Council of Europe, especially section, "The relevant domestic law and practice."